

SENATE BILL REPORT

SB 5907

As of March 29, 2011

Title: An act relating to implementing the policy recommendations resulting from the national institute of corrections review of prison safety.

Brief Description: Implementing the policy recommendations resulting from the national institute of corrections review of prison safety.

Sponsors: Senators Kohl-Welles, Holmquist Newbry, Kline, Hewitt, Keiser, King, Regala, Conway, Carrell and Hargrove; by request of Governor Gregoire.

Brief History:

Committee Activity: Labor, Commerce & Consumer Protection: 3/25/11 [DPS-WM, DNP].

Ways & Means: 3/30/11.

SENATE COMMITTEE ON LABOR, COMMERCE & CONSUMER PROTECTION

Majority Report: That Substitute Senate Bill No. 5907 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Hewitt, Keiser and Kline.

Minority Report: Do not pass.

Signed by Senators Holmquist Newbry, Ranking Minority Member; King, Assistant Ranking Minority Member.

Staff: Ingrid Mungia (786-7423)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Richard Ramsey (786-7412)

Background: The Washington Department of Corrections (Department) submitted a request for the national Institute of Corrections to conduct an independent review of Monroe Correctional Complex (MCC)/Washington State Reformatory (WSR) into pertinent systems and policies surrounding the policies and procedures relative to the death of Correctional Officer Jayme Biendl which occurred on January 29, 2011. The report contains 15

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

recommendations relating to changing systems, policies, practices, protocol, and technology within MCC/WRS.

Summary of Bill (Recommended Substitute): Statewide and Local Security Advisory Committees. The Department must establish a statewide security advisory committee (Committee) to review the department's security-related policies and procedures. The committee must be comprised of a wide range of institutional staff, some of who must be custody staff, including:

- the director of prisons;
- a nonsupervisory classified employee and/or sergeant from each local advisory committee of a major facility and one nonsupervisory classified employee and/or sergeant repetitive from a minimum facility;
- the senior-ranking security custody staff member from each security facility and a senior ranking custody staff member from a minimum correctional facility; and
- a delegate from the union that represents department employees located at correctional facilities.

The Committee must:

1. Make recommendations to the Secretary of Corrections on the methods to provide consistent application of the security policies and procedures; and
2. Develop guidelines to establish local security advisory committees (local committee) for each correctional facility within the Department. The chair of each local committee must be the captain at a major facility and the lieutenant at a minimum security facility. The local committee should consist of a wide range of nonsupervisory classified employees and/or sergeants from the facility, such as:
 - a. medical staff;
 - b. class counselors;
 - c. program staff; and
 - d. mental health staff.

The Department must report back to the Governor and the appropriate committees of the Legislature by November 1, 2011, and annually thereafter. The report must include:

- recommendations raised by either the statewide or local security advisory committees;
- recommendations for improving the ability of nonsupervisory classified employees to provide input on safety concerns including staff allocation, labor and industries mandated safety committees, and the inclusion of safety issues in collective bargaining;
- minutes from each meeting of the statewide security advisory committee meetings;
- actions taken by the Department as a result of recommendations by the statewide security advisory committee; and
- recommendations for additional resources or legislation to address security concerns in total confinement correctional facilities.

Multidisciplinary Teams. The Department must establish multidisciplinary teams (Teams) at each correctional facility to evaluate offenders' placements in inmate job assignments and custody promotions. The Teams at each facility must determine suitable placement based on the offender's risk, behavior, or other factors considered by the team. The Teams must be

comprised of representatives from a wide range of nonsupervisory classified employees and/or sergeants from the facility, such as medical staff, class counselors, program staff, and mental health staff.

Training Curriculum. The Department must develop training curriculum regarding staff safety issues at correctional facilities in consultation with both the statewide security and local advisory committees. The training must be delivered to applicable correctional staff at in-service by July 1, 2012. The training curriculum must address the following issues:

- security routines;
- physical plant layout;
- offender movement and program areas coverage; and
- situational awareness and de-escalation techniques.

Body Alarms and Proximity Cards. The Department must hire a consultant to study the feasibility of implementing a statewide system for staff safety, utilizing body alarms and proximity alarms for staff within correctional facilities. The consultant must seek the input from both the statewide and local security advisory committees. The Department must report the consultant's findings and recommendations to the Governor and appropriate committees of the Legislature by November 1, 2011. The report must include:

- recommendations for the use of body alarms by security level personnel;
- recommendations for specific positions that should require the use of body alarms;
- the information technological and infrastructure requirements needed for body alarms and proximity cards;
- the training requirements for body alarms;
- lessons learned from any pilot project the Department may implement in the interim; and
- the estimated costs of the alarms and proximity cards and needed supporting infrastructure, staffing, and training requirements.

The Department may pilot the use of body alarms and proximity cards within available resources.

Video Monitoring Cameras. The Department must hire a consultant to study and make recommendations on the deployment of video monitoring cameras within the Department. The consultant must seek the input from both the statewide and local security advisory committees. The Department must report the findings and recommendations to the Governor and the appropriate committees of the Legislature by November 1, 2011. The report must include:

- recommendations for the use of video monitoring cameras by security level;
- recommendations for specific locations within a correctional facility which would benefit from the use of video monitoring cameras;
- the information technological and infrastructure requirements needed for effective use of video monitoring cameras;
- recommendations for how video monitoring cameras should be incorporated into future prison construction to insure consistency in camera use system-wide; and
- the estimated cost of the video monitoring cameras, supporting infrastructure needed, and staffing required by the correctional facility.

Oleoresin Capsicum Aerosol Products. The Department must develop a plan for the use of oleoresin capsicum aerosol products, also known as pepper spray, as a security measure available for staff at correctional facilities in consultation with the statewide and local security advisory committees. The plan must include recommendations regarding which facility's use should be limited to, what the training requirements should be, the estimated costs, and an implementation schedule. The Department must report its plan, including costs, to the Governor and appropriate committees of the Legislature by November 1, 2011.

The Department may initiate a pilot project, within available funds, to expand the deployment of oleoresin capsicum aerosol products within correctional facilities.

Matters subject to bargaining for employees of the Department must include issues of employee safety relating to staff allocation, equipment, policy, and protocol.

EFFECT OF CHANGES MADE BY LABOR, COMMERCE & CONSUMER PROTECTION COMMITTEE (Recommended Substitute):

1. Adds line staff (nonsupervisory classified employee) to the statewide and each local advisory committee.
2. Adds a labor representative to the statewide advisory committee.
3. Adds requirement for annual reports and for the meeting minutes of the statewide advisory committee to be provided to the Governor and the Legislature.
4. Adds requirement that the Department report to the Governor/Legislature on recommendations for improving the ability of nonsupervisory classified employees to provide input on safety concerns including staff allocations.
5. Directs the Department to deliver the training curriculum to applicable correctional staff at in service training by July 1, 2012.
6. Directs that input from the local advisory committees be considered for Section 4 (training curriculum), Section 5 (body alarms and proximity cards), Section 6 (video cameras), and Section 7 (plan of pepper spray).
7. Adds issues relating to DOC employee safety as a mandatory subject of collective bargaining.

The title is changed to an act relating to prison safety and implementing the policy recommendations resulting from the national institute of corrections review of prison safety.

Appropriation: None.

Fiscal Note: Requested on March 23, 2010.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill (Labor, Commerce & Consumer Protection): PRO: The Governor asked for a review after the death of correctional officer Jayme Biendl at the Monroe Reformatory. The National Institute of Corrections (NIC) conducted a review and submitted 15 recommendations. This legislation is to implement

some of those recommendations. The report or the bill intends to be the last word on this subject. There are multiple investigations going on, and we will learn from each of them. The Department of Labor & Industries is currently investigating and they have six months to complete their investigation. This bill does not address everything that needs to be accomplished. It is the Governor's intention to meet with the state Security Committee on an annual basis. We need all the input from the security committees to implement the plan. It is our intention to have in-service training programs. We want body alarms and proximity cards, but we need to be smart about it and get someone on board. The advisory committees need to work with the consultant so we can come back to you next year with our recommendations of what we need. We have the resources in our current budget to buy the pepper spray product. We are moving forward deliberately but with some caution and some trial and error is our intention. This is an extraordinary event and the attention it is being paid is completely appropriate.

OTHER: We have very strong concerns on this piece of legislation. We are most concerned that this piece of legislation does not address all the points made by the NIC investigation. This legislation does not address any staffing concerns brought up by the NIC investigator. We are incredibly disappointed how the Governor's Office and the Department is moving forward with the NIC recommendations. There is nothing that would ensure enforcement of the recommendations made by the state and local safety committees. We have had safety committees in the past, and nothing has happened. The question is how is this going to be implemented. Are there any enforcement mechanisms? It is inappropriate that we have to fund a consultant versus taking that money and giving it to the Department for immediate fixes to safety concerns raised by line staff. We ask that you spend the money on the immediate need of the line staff. The best line of defense is the knowledge we have on the ground. It is not enough just to consult two correctional officers. We have to consult employees across the board. We need additional cameras now. We have to find funds; this is a matter of life and death.

Persons Testifying (Labor, Commerce & Consumer Protection): PRO: John Lane, Governor's Office; Eldon Vail, Secretary, Department of Corrections.

OTHER: Anna Jancewicz, Teamsters 117.